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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK  
3 -----x

4 UNITED STATES OF AMERICA,

5 v.

17 CR 680 (CM)

6 MICHAEL WRIGHT,

7 Defendant.  
-----x

8 New York, N.Y.  
9 September 27, 2018  
3:00 p.m.

10 Before:

11 HON. STEWART D. AARON,

12 Magistrate Judge

14 APPEARANCES

15 GEOFFREY S. BERMAN  
16 United States Attorney for the  
17 BRENDAN QUIGLEY  
18 Assistant United States Attorney

19 LAW OFFICES OF ALAN S. FUTERFAS  
20 Attorneys for Defendant  
21 ALAN S. FUTERFAS  
22 RICHARD F. BRUECKNER  
23 ELLEN RESNICK

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1                   THE DEPUTY CLERK: In the matter of U.S. v. Michael  
2 Wright, Docket No. 17 C R 680, counsel, please state your  
3 appearance for the record.

4                   MR. QUIGLEY: Good afternoon. Brendan Quigley for the  
5 United States.

6                   MR. FUTERFAS: Good afternoon. Alan Futerfas and I'm  
7 here with Richard Brueckner and Ellen Resnick for Mr. Wright  
8 who is present.

9                   THE COURT: Good afternoon.

10                  So I understand that we're here because Mr. Wright  
11 wishes to enter a plea with respect to the charges alleged  
12 against him in Count Two of the indictment. Is that correct?

13                  MR. FUTERFAS: Yes, your Honor.

14                  THE COURT: I have before me a form entitled "Consent  
15 to Proceed Before a United States Magistrate Judge On a Felony  
16 Plea Allocution" that you've signed, Mr. Wright. The form says  
17 that you know that you have the right to have your plea taken  
18 by a United States district judge, but you're agreeing to have  
19 the plea taken by me, a United States magistrate judge.

20                  As a magistrate judge, I have the authority to take  
21 your plea with your consent, and you'll still be entitled to  
22 all the same rights and protections as if you were before a  
23 district judge. Among other things, if you're found guilty,  
24 you'll be sentenced by the district judge.

25                  Did you sign this consent form voluntarily?

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1                   THE DEFENDANT: Yes, your Honor.

2                   THE COURT: Before you signed the form, did your  
3 attorney explain it to you?

4                   THE DEFENDANT: Yes, your Honor.

5                   THE COURT: Do you wish to proceed with your plea  
6 before me?

7                   THE DEFENDANT: Yes, your Honor.

8                   THE COURT: So I'm accepting your consent, and I'm  
9 noting that by putting my signature at the bottom.

10                  So the purpose of this proceeding this afternoon is to  
11 make sure you understand your rights, to decide whether you're  
12 pleading guilty of your own free will, and to make sure that  
13 you're pleading guilty because you are guilty and not for some  
14 other reason. Do you understand?

15                  THE DEFENDANT: Yes, your Honor.

16                  THE COURT: I'm now going to ask you certain  
17 questions. It is very important that you answer these  
18 questions honestly and completely. Therefore, if you don't  
19 understand any of the questions or if you want time to consult  
20 with your attorney, please let me know. Because it is  
21 important that you understand every question before you answer.  
22 Okay?

23                  THE DEFENDANT: Yes, your Honor.

24                  THE COURT: So what is your full name?

25                  THE DEFENDANT: Michael Alfred Wright.

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1                   THE COURT: How old are you?

2                   THE DEFENDANT: 42.

3                   THE COURT: Can you read and write in English?

4                   THE DEFENDANT: Yes, sir.

5                   THE COURT: What was the highest grade in school that  
6 you completed?

7                   THE DEFENDANT: Bachelor's of college, four years.

8                   THE COURT: Are you currently or have you recently  
9 been under the care of a doctor or mental health professional  
10 for any reason?

11                   (Defendant conferring with his counsel)

12                   THE DEFENDANT: I saw a doctor for a medical  
13 condition. A issue in my leg.

14                   THE COURT: An issue with your?

15                   THE DEFENDANT: My leg.

16                   THE COURT: With your leg. That medical condition  
17 doesn't affect your brain at all or your thinking?

18                   THE DEFENDANT: No, it does not, your Honor.

19                   THE COURT: Are you under the influence of any drug or  
20 alcohol today?

21                   THE DEFENDANT: No, your Honor.

22                   THE COURT: How are you feeling physically today?

23                   THE DEFENDANT: Well, your Honor.

24                   THE COURT: Have you had sufficient time to discuss  
25 the charges against you and your plea with your counsel?

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1                   THE DEFENDANT: Yes, your Honor.

2                   THE COURT: Have you been satisfied with the advice  
3 that you've been provided by your attorney?

4                   THE DEFENDANT: Yes, your Honor.

5                   THE COURT: Are you ready to enter a plea today?

6                   THE DEFENDANT: Yes, your Honor.

7                   THE COURT: Does either counsel have any objection to  
8 the defendant's competence to plead at this time?

9                   MR. QUIGLEY: No, your Honor.

10                  MR. FUTERFAS: No, your Honor.

11                  THE COURT: Very well. Now, in order to determine  
12 whether your plea is voluntary and made with a full  
13 understanding of the charges against you and the consequences  
14 of your plea, I'm going to be making certain statements to you  
15 and I'm going to be asking you certain questions, and I want  
16 you to understand that I feed not accept your plea unless I'm  
17 satisfied you are in fact guilty and that you fully understand  
18 your rights. Okay?

19                  THE DEFENDANT: Yes, your Honor.

20                  THE COURT: So the plea agreement states that you are  
21 going to be plead guilty to Count Two of the indictment. And  
22 let me set forth what Count Two says.

23                  Count Two charges you with wire fraud from at least in  
24 or about August 2016 through at least in or about August 2017  
25 in violation of Title 18, United States Code, Sections 1343 and

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1       2. And carries a maximum sentence of imprisonment of 20 years,  
2       a maximum term of supervised release of three years, a maximum  
3       fine pursuant to Title 18, United States Code, Section 3571 of  
4       the greatest of \$250,000, twice the gross pecuniary gain  
5       derived from the offense, or twice the gross pecuniary loss to  
6       persons other than yourself resulting from the offense.

7                   Do you understand that those are the charges that have  
8       been lodged against you as well as the maximum and minimum  
9       penalties associated with those charges?

10               THE DEFENDANT: Yes, your Honor.

11               THE COURT: Do you understand that as part of the  
12       plea, you agreed to admit the forfeiture allegation with  
13       respect to Count Two of the indictment?

14               THE DEFENDANT: Yes, your Honor.

15               THE COURT: And you have agreed to forfeit to the  
16       United States a sum of money equal to \$346,128.99 in United  
17       States currency, representing the amount of proceeds traceable  
18       to the commission of the offense that was obtained by you. Do  
19       you understand that?

20               THE DEFENDANT: Yes, your Honor.

21               THE COURT: Do you also understand that any forfeiture  
22       of your asset shall not be treated as the satisfaction of any  
23       fine, restitution, cost of imprisonment, or any other penalty  
24       the Court may impose upon you in addition to forfeiture?

25               THE DEFENDANT: Yes, your Honor.

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1                   THE COURT: Do you understand that under your plea  
2 agreement, you can be required to pay restitution to victims of  
3 your crime in an amount the Court deems appropriate?

4                   THE DEFENDANT: Yes, your Honor.

5                   THE COURT: Finally, I'm required by law to tell you  
6 that there is a special assessment or fine of \$100 that is  
7 required to be imposed on this count.

8                   Mr. Wright, what country are you a citizen of?

9                   THE DEFENDANT: United States of America.

10                  THE COURT: You should know that if you're not a  
11 citizen of the United States, then your guilty plea may also  
12 have adverse consequences for your ability to remain in or  
13 return to the United States, including removal, deportation,  
14 denial of citizenship, and denial of admission to the United  
15 States in the future. If that were to happen, you would still  
16 be bound by your guilty plea, that is, you would not be able to  
17 withdraw it regardless of any advice you have received from  
18 your counsel or others regarding the immigration consequences  
19 of your plea.

20                  Now, do you understand the charges against you and the  
21 consequences of pleading guilty?

22                  THE DEFENDANT: Yes, your Honor.

23                  THE COURT: Do you understand that in exchange for  
24 your plea, the United States attorney's office has agreed not  
25 to criminally prosecute you further for the conduct charged in

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1 Count Two of the indictment?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: Do you understand that the United States  
4 attorney cannot make any promises to you concerning criminal  
5 tax violations?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: Do you understand that in exchange for  
8 your plea, the agreement does not bar the use of your conduct  
9 as a predicate act or as the basis for a sentencing enhancement  
10 in a subsequent prosecution?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: Do you agree that with respect to any and  
13 all dismissed charges, you are not a prevailing party within  
14 the meaning of what's called the Hyde Amendment, and you will  
15 not file any claim under that law?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: Do you understand you have the right to  
18 plead not guilty and the right to a trial on the charges  
19 against you, and, in fact, a trial by jury?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: Now, I'm going to ask the assistant United  
22 States attorney to state the elements of the crime charged.  
23 You should understand that the elements are the things that the  
24 government would have to prove beyond a reasonable doubt if you  
25 were to go to trial.

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1 MR. QUIGLEY: Thank you, your Honor.

2 There are three elements to this offense: First, that  
3 there was a scheme to defraud or obtain money or property by  
4 materially false or fraudulent pretenses, representations or  
5 promises. Second, that the defendant knowingly and willfully  
6 participated in a scheme or artifice to defraud with knowledge  
7 of its fraudulent nature and with the specific intent to  
8 defraud, or, that he knowingly and intentionally aided and  
9 abetted others in the scheme. And third, that in the execution  
10 of the scheme, the defendant used or caused the use of  
11 interstate wires as specified in the charges.

12 The government would also have to prove venue in the  
13 Southern District of New York by a preponderance of the  
14 evidence.

15 THE COURT: So Mr. Wright, do you understand that if  
16 you were to plead not guilty and go to trial, the burden would  
17 be on the government to prove each and every element of the  
18 crime charged, the ones you just heard, beyond a reasonable  
19 doubt in order to convict you?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: Do you understand that at trial, you would  
22 be entitled to be represented by an attorney at all stages of  
23 the proceeding, and, if necessary, an attorney would be  
24 appointed for you?

25 THE DEFENDANT: Yes, your Honor.

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1                   THE COURT: Do you understand that at trial, you would  
2 have the right to confront and cross-examine witnesses against  
3 you, and the right not to be compelled to incriminate yourself?

4                   THE DEFENDANT: Yes, your Honor.

5                   THE COURT: Do you understand that at trial, you would  
6 be presumed innocent until such time, if ever, the government  
7 established your guilt by competent evidence to the  
8 satisfaction of the trier of fact beyond a reasonable doubt?

9                   THE DEFENDANT: Yes, your Honor.

10                  THE COURT: Do you understand that at trial, you would  
11 have the right to testify and also be entitled to compulsory  
12 process, in other words, the right to call other witnesses on  
13 your behalf?

14                  THE DEFENDANT: Yes, your Honor.

15                  THE COURT: Do you understand if your plea is  
16 accepted, then there will be no further trial of any kind, so  
17 by pleading guilty you are waiving your right to trial?

18                  THE DEFENDANT: Yes, your Honor.

19                  THE COURT: Now, do you understand that any statements  
20 you make here today under oath may be used against you in a  
21 prosecution for perjury or for making false statements?

22                  THE DEFENDANT: Yes, your Honor.

23                  THE COURT: Failing to tell the truth today in this  
24 proceeding is a crime. Do you understand that?

25                  THE DEFENDANT: Yes, your Honor.

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1                   THE COURT: It occurs to me, Ms. Lopez, we should go  
2 back and swear in the witness.

3                   THE DEPUTY CLERK: Please raise your right hand.

4                   (Defendant sworn)

5                   THE COURT: Now I want to rewind and ask you all the  
6 questions that you previously gave me answers to, will you  
7 affirm under oath that each of them was truthful to the best of  
8 your knowledge?

9                   THE DEFENDANT: Yes, your Honor.

10                  THE COURT: Okay. I'd like to now turn to the plea  
11 agreement that you signed which I've been provided the original  
12 of.

13                  Am I correct that you signed this six-page plea  
14 agreement today?

15                  THE DEFENDANT: Yes, your Honor.

16                  THE COURT: Prior to signing it, did you read it?

17                  THE DEFENDANT: Yes, your Honor.

18                  THE COURT: Did you have an opportunity to discuss it  
19 with your attorney before you signed it?

20                  THE DEFENDANT: Yes, your Honor.

21                  THE COURT: You did in fact discuss it with your  
22 attorney, right?

23                  THE DEFENDANT: Yes, your Honor.

24                  THE COURT: Putting this agreement to one side,  
25 separate and apart from the agreement, have any threats or

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1 promises been made to you of any kind to make you plead guilty?

2 THE DEFENDANT: No, your Honor.

3 THE COURT: Is anyone forcing you to plead guilty?

4 THE DEFENDANT: No, your Honor.

5 THE COURT: Again, putting the agreement to one side,  
6 have any understandings or promises been made to you concerning  
7 the sentence that you will receive?

8 THE DEFENDANT: No, your Honor.

9 THE COURT: Is your plea voluntary, in other words, of  
10 your own free will?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: Now I'm going to review certain portions  
13 of the plea agreement with you in addition to the ones I've  
14 already gone over.

15 In particular, what it states is that you've reached  
16 agreement with the government with respect to the appropriate  
17 calculation of your sentence under a part of our law known as  
18 the sentencing guidelines. And what the agreement states is  
19 that the stipulated guideline sentencing range is 21 to 27  
20 months' imprisonment. Do you understand that?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: And the agreement also states that you and  
23 the government have agreed that the applicable fine range is  
24 between \$10,000 and \$95,000. Do you understand that?

25 THE DEFENDANT: Yes, your Honor.

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1                   THE COURT: Do you understand that neither the  
2 probation office nor the Court is bound by the guideline  
3 stipulations, and that the sentence to be imposed upon you will  
4 be determined solely by the District Court?

5                   THE DEFENDANT: Yes, your Honor.

6                   THE COURT: In imposing its sentence upon you, the  
7 District Court is obligated to calculate the applicable  
8 sentencing guideline range in determining a sentence range,  
9 including other sentencing factors that are set forth in Title  
10 18, United States Code, Section 3553(a). Do you understand  
11 that?

12                  THE DEFENDANT: Yes, your Honor.

13                  THE COURT: Do you understand you have agreed not to  
14 file a direct appeal or otherwise challenge your conviction or  
15 sentence if you are sentenced within or below the stipulated  
16 guidelines range?

17                  THE DEFENDANT: Yes, your Honor.

18                  THE COURT: Do you understand you have also agreed to  
19 waive your right to appeal any term of supervised release that  
20 is less than or equal to the statutory maximum?

21                  THE DEFENDANT: Yes, your Honor.

22                  THE COURT: Do you understand that you have agreed to  
23 waive your right to appeal any fine that is less than or equal  
24 to \$95,000?

25                  THE DEFENDANT: Yes, your Honor.

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1                   THE COURT: In light of the foregoing, how do you  
2 plead?

3                   THE DEFENDANT: Guilty.

4                   THE COURT: Are you pleading guilty because you are in  
5 fact guilty?

6                   THE DEFENDANT: Yes, your Honor.

7                   THE COURT: Do you understand that this plea agreement  
8 does not bind any prosecuting office other than the United  
9 States Attorney's Office for the Southern District of New York?

10                  THE DEFENDANT: Yes, your Honor.

11                  THE COURT: Do you understand that apart from any  
12 proffer agreements that you may have entered into with the  
13 government, this plea agreement takes the place of any prior  
14 understanding you may have had with the government, and the  
15 plea agreement cannot be modified except in a writing signed by  
16 all parties?

17                  THE DEFENDANT: Yes, your Honor.

18                  THE COURT: Do you understand if your conviction  
19 following your plea of guilty is vacated for any reason, then  
20 the government is not time barred. And if the cause of action  
21 is not time barred as of the date of signing the agreement,  
22 that the government can reinstate its prosecution against you?

23                  THE DEFENDANT: Yes, your Honor.

24                  THE COURT: Mr. Wright, did you commit the offense to  
25 which you are pleading?

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1                   THE DEFENDANT: Yes, your Honor.

2                   THE COURT: So please tell me in your own words what  
3 you did.

4                   THE DEFENDANT: In December 2016, I was in business  
5 with Craig Carton to sell concert tickets on the secondary  
6 market.

7                   From on or about October 2016, I was aware that Craig  
8 Carton had been negotiating with Brigade Capital Management  
9 (Brigade), and that some of those negotiations concerned an  
10 investment Brigade was to make in the ticket inventory.

11                  At the same time, I was aware that Craig Carton had  
12 outstanding personal debts coming due, and that among these  
13 debts were money that Craig Carton owed to me and others.

14                  On or about December 21 through December 23, 2016, at  
15 Craig Carton's instruction and with the purpose of satisfying  
16 his debt to me and others, I arranged for transfers of over  
17 \$550,000 from a business account called Tier One which  
18 contained funds received from Brigade to my accounts and to the  
19 accounts of others.

20                  At the time the Tier One accounts received the funds,  
21 I was aware that there was a high probability that Craig Carton  
22 had represented to Brigade that the funds it sent were to be  
23 used exclusively for the purpose of purchasing concert tickets,  
24 and I consciously avoided confirming that fact.

25                  THE COURT: Where were you when this conduct took

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1 place?

2 MR. FUTERFAS: Can I have a moment, your Honor.

3 (Defendant conferring with his counsel)

4 THE DEFENDANT: New York City.

5 THE COURT: On the island of Manhattan?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: Is it fair to say that the scheme about  
8 which you just testified or that you just stated involved the  
9 use of false pretenses?

10 MR. FUTERFAS: May I have a moment, your Honor.

11 (Defendant conferring with his counsel)

12 THE DEFENDANT: I was aware of the high probability  
13 that Craig Carton was not truthful with Brigade.14 THE COURT: At the time you committed the acts that  
15 you just spoke about, were you aware that what you were doing  
16 was wrong and against the law?

17 (Defendant conferring with his counsel)

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: Does the government have additional  
20 questions that it would like me to put to the defendant?21 MR. QUIGLEY: No, your Honor. We think that's a  
22 sufficient allocution. I would just proffer that among the  
23 wires that were sent out were wires that went from the Southern  
24 District of New York to New Jersey, and that would satisfy the  
25 interstate element.

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1                   THE COURT: And the other thing I'd ask the  
2 government, what evidence would you put forth if you went to  
3 trial concerning the guilt of the defendant?

4                   MR. QUIGLEY: Your Honor, we would put in e-mails and  
5 text messages in which the defendant and Mr. Carton and others  
6 discussed Mr. Carton's debts as the defendant alluded to. They  
7 discussed this potential investment in the ticket industry.  
8 And testimonial evidence from individuals who were owed debts  
9 by those defendants, evidence regarding representations  
10 Mr. Carton had made to his investors, and bank records showing  
11 the misappropriation of investment funds.

12                  THE COURT: Mr. Wright, in view of all of the  
13 foregoing, do you still wish to plead guilty?

14                  THE DEFENDANT: Yes, your Honor.

15                  THE COURT: I'll ask defense counsel, are you aware of  
16 any reason your client ought not plead guilty?

17                  MR. FUTERFAS: No, your Honor.

18                  THE COURT: The Court is satisfied, Mr. Wright, that  
19 you understand the nature of the charges against you and the  
20 consequences of your plea. The Court is also satisfied that  
21 your plea is being made voluntarily and knowingly and that  
22 there is a factual basis for it. Accordingly, I will recommend  
23 to the District Court that your plea of guilty be accepted.

24                  I assume the government will order a copy of the  
25 transcript and will submit it together with any additional

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1 paperwork so that Judge McMahon may act on my recommendation.

2 MR. QUIGLEY: Yes, your Honor.

3 THE COURT: I'll ask the government, will you deliver  
4 the case summary for purposes of the presentence report to the  
5 probation department within 14 days?

6 MR. QUIGLEY: Yes, your Honor.

7 THE COURT: And defense counsel, would you be  
8 available to be interviewed by the probation department with  
9 your client within 14 days?

10 MR. FUTERFAS: Yes, your Honor.

11 THE COURT: Has Judge McMahon set a date for  
12 sentencing?

13 MR. QUIGLEY: She has not, your Honor. We'd ask for a  
14 control date. 120 days we think is standard for a bailed  
15 defendant.

16 THE COURT: January 29, 2019, will be the control date  
17 for the sentencing which I think is 120 days.

18 MR. QUIGLEY: Thanks, your Honor. Close enough.

19 THE COURT: Or close enough.

20 Anything further from either side?

21 MR. FUTERFAS: Nothing, your Honor.

22 MR. QUIGLEY: No, your Honor. Thank you.

23 THE COURT: Thank you. This matter is adjourned.

24 (Adjourned)